

DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES

CHAPTER 97

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Subchapter 1

General Requirements

37.97.101 YOUTH CARE FACILITY: PURPOSE (1) These rules establish licensing procedures and licensing requirements for youth care facilities. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142, 52-2-111 and 53-4-111, MCA; IMP, Sec. 41-3-501, 41-3-503, 41-3-1102, 41-3-1142, 52-2-113, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663.)

37.97.102 YOUTH CARE FACILITY: DEFINITIONS (1) The following definitions apply to all youth care facility licensing rules:

(a) Except in regard to age requirements under Montana medicaid programs which allow for participation of youth up to the age of 21 years, "child" or "youth" means any person under the age of 18 years, without regard to sex or emancipation.

(b) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or who are without the care and supervision of their parents or guardian.

(c) "Youth care facility" (YCF) means a licensed facility in which substitute care is provided to youth and includes youth foster homes, youth group homes, youth shelter care facilities, therapeutic youth group homes, and child care agencies.

(d) "Youth foster home" or "foster care home" or "boarding home" means a YCF in which substitute care is provided to one to six children or youth to whom the foster parents are not related by blood, marriage, adoption or wardship.

(e) "Youth group home" means a YCF in which substitute care is provided to seven to 12 children or youth.

(f) "Child care agency" means any YCF in which substitute care is provided to 13 or more children.

(g) "Youth shelter care facility" means a YCF which regularly receives children under temporary conditions until the court, probation office, the department, or other appropriate social agency has made other provisions for their care.

(h) "Maternity home" means a YCF which provides for the care and maintenance of minor girls and adult women during pregnancy, childbirth, and postnatal periods. A maternity home must meet the licensing requirements of a child care agency regardless of the number of residents served.

(I) "Child care staff" means YCF personnel who directly participate in the care, supervision and guidance of children in a YCF.

(j) "Houseparent" means a staff member whose primary responsibility is the day-to-day care of children in a youth group home.

(k) "Foster parent" means a person responsible for the day-to-day care, supervision and guidance of children in a youth foster home.

(l) "Department" means department of public health and human services.

(m) "Time-out" means the placement of a child for a period of less than 30 minutes in an unlocked room.

(n) "Restraint" means the extraordinary restriction of a child's freedom or freedom of movement.

(o) "Passive physical restraint" means the least amount of direct physical contact required by a staff member using approved methods of making such physical contact to restrain a child from harming self or others.

(p) "Child/staff ratio" means number of children in care per each on-duty child care staff member.

(2) The following definitions apply only to child care agencies which operate an approved residential treatment center:

(a) "Residential treatment center" means a unit or facility of a child care agency that treats children who are seriously disturbed either mentally, emotionally or behaviorally. In addition to the child care agency rules, such unit or facility must meet the licensing requirements contained in ARM 37.97.250, 37.97.253, 37.97.254, 37.97.257, 37.97.258 and 37.97.259.

(b) "Seclusion" means isolation of a child in a locked room. Seclusion may be used to protect the child, other children, and staff and to give the child the opportunity to regain control of his or her behavior and emotions by providing definite external boundaries and decreased stimulation.

(c) "Chemical restraint" means the use of psychotropic medication to subdue, inhibit, confine or control a child's behavior.

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(d) "Mechanical restraint" means the restriction by mechanical means of a child's mobility and/or ability to use his/her hands, arms or legs.

(3) Additional definitions for youth care facilities licensed as therapeutic youth group homes are found in ARM 11.13.101.

(4) The following definitions apply only to youth shelter care facilities:

(a) "Pat down search" means a body search done outside of a youth's clothing with the intention of locating suspected contraband.

(b) "Personal property search" means a search which involves going through a youth's personal property and/or room including closet, bed, desk, dresser drawers, etc., with the intention of looking for contraband.

(c) "Correspondence search" means opening, inspecting and/or reading a youth's mail or inspecting the contents of a package. (History: Sec. 41-3-1103, 41-3-1142, 52-2-111 and 53-4-111, MCA; IMP, Sec. 41-3-1102, 41-3-1142, 52-2-113, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1942, Eff. 7/1/87; AMD, 1988 MAR p. 172, Eff. 1/29/88; AMD, 1991 MAR p. 2605, Eff. 12/27/91; AMD, 1992 MAR p. 2728, Eff. 12/25/92; AMD, 1993 MAR p. 403, Eff. 3/26/93; AMD, 1993 MAR p. 1209, Eff. 6/11/93; AMD, 1993 MAR p. 1506, Eff. 7/16/93; AMD, 1995 MAR p. 471, Eff. 3/31/95; AMD, 1198 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 03 and 04 reserved

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37.97.105 YOUTH CARE FACILITY: LICENSE REQUIRED

(1) Every youth care facility shall be licensed by the department, or responsible tribal authority.

(2) Failure of a provider to obtain or renew a license while continuing to operate a youth care facility is a misdemeanor and shall be subject to the penalties provided in 41-3-504, MCA. (History: Sec. 41-3-503 and 53-4-111, MCA; IMP, Sec. 41-3-502, 41-3-504, 41-3-1103, 41-3-1141, 41-3-1143, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.106 YOUTH CARE FACILITY: LICENSES

(1) One-year licenses. The department shall issue a one year youth care facility license to any license applicant that meets all licensing requirements established by these rules, as determined by the department after a licensing study, or, that is licensed or otherwise approved by another state agency.

(a) The department shall renew the license annually on the expiration date of the previous year's license if:

(i) the YCF makes written application for renewal at least 30 days prior to the expiration date of its current license; and

(ii) the YCF continues to meet all licensing requirements established by these rules, as determined by the department after a relicensing study.

(b) If a YCF makes timely application for renewal of a license, but the department fails to complete the relicensing study before the expiration date of the previous year's license, the previous year's license will continue in effect for the time necessary for the department to complete the relicensing study and to make a determination of compliance with licensing requirements.

(2) Provisional license. The department may in its discretion issue a provisional license for any period up to 6 months to any license applicant which:

(a) has met all licensing requirements for fire safety; and

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(b) has agreed in writing to comply fully with all licensing requirements established by these rules within the time period covered by the provisional license.

(i) The department may in its discretion renew a provisional license if the license applicant shows good cause for failure to comply fully with all licensing requirements within the time period covered by the prior provisional license, but the total time period covered by the initial provisional license and renewals may not exceed 1 year.

(3) Restricted license. A restricted license may be issued for the care of a specific child with the approval of the department.

(4) The YCF shall not accept more children than the number specified on the license.

(5) No applicant(s) shall be newly licensed for a youth foster home if any one of the following has occurred within 12 months of the application, unless an exception is granted by the department:

(a) a death of a spouse or child in the applicant's family;

(b) a marital separation or divorce of the applicant(s);

(c) an adoption of a child who has not been living with the adoptive parent(s);

(d) the birth of a child to the applicant(s); or

(e) loss of employment by the applicant;

(f) If (5)(a), (b), (c), (d) or (e) occur in a licensed foster home, the foster parent(s) shall notify the licensing social worker within 48 hours. The licensing social worker will reevaluate the home within 30 days to determine whether there should be any change in the licensing status.

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(6) If a couple, the applicant(s) shall have been together for at least 24 months.

(7) Any applicant who has received services for substantiated abuse or neglect of a child as defined in ARM 37.47.602(1)(m) shall be denied a foster care license unless special approval is given by the regional administrator after careful review of extenuating circumstances which justify the issuance of a restricted license.

(8) Any applicant whose own children have been in foster care should be denied a foster care license, unless an exception is granted by the department because the circumstances leading to the provision of services or the placement no longer exists. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1142, and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1988 MAR p. 2217, Eff. 10/14/88; AMD, 1990 MAR p. 590, Eff. 3/30/90; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663.)

Rules 07 through 09 reserved

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37.97.110

37.97.110 YOUTH CARE FACILITY: LICENSING PROCEDURES

(1) Application for a YCF license must be made on an application form provided by the department.

(2) Upon receipt of an application for license or renewal of license, the department shall conduct a licensing study to determine if the applicant meets all licensing requirements for licensure as established in these rules.

(3) If the department determines that an application or accompanying information is incomplete or erroneous, it will notify the applicant of the specific deficiencies or errors, and the applicant shall submit the required or corrected information within 60 days. The department shall not issue a license or renew a license until it receives all required or corrected information. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1979 MAR p. 443, Eff. 5/11/79; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663.)

Rules 11 through 14 reserved

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37.97.115

37.97.115 YOUTH CARE FACILITY: LICENSE REVOCATION AND

DENIAL (1) The department, after written notice to the applicant or licensee, may deny, suspend, restrict, revoke or reduce to a provisional status a license upon finding that:

(a) the YCF is not in compliance with fire safety standards; or

(b) the YCF is not in substantial compliance with any other licensing requirements established by this rule; or

(c) the YCF has made any misrepresentations to the department, either negligent or intentional, regarding any aspect of its operations or facility; or

(d) the YCF has failed to use the foster care payments for the support of the foster child; or

(e) the YCF or its staff have been named as the perpetrator in a substantiated report of abuse or neglect; or

(f) the YCF failed to report an incident of abuse or neglect to the department or its local affiliate as required by 41-3-201, MCA.

(g) the YCF, its staff or anyone living in a YCF household may pose any risk or threat to the safety or welfare of any youth placed in the YCF.

(2) At the discretion of the department and for protection of the child(ren) in placement the child(ren) may be moved immediately upon receipt of a report of sexual or physical abuse by the YCF. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1990 MAR p. 590, Eff. 3/30/90; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663.)

Rules 16 and 17 reserved

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37.97.118 YOUTH CARE FACILITY, HEARING PROCEDURES

(1) Any person aggrieved by an adverse department action denying or revoking a license for a YCF may request a hearing as provided in ARM 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.313, 37.5.316, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334 and 37.5.337. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142, 52-2-111, 52-2-602, 52-2-622, 52-2-704 and 53-4-111, MCA; IMP, Sec.41-3-503, 41-3-1103, 41-3-1142, 52-2-111, 52-2-113, 53-2-201, 52-2-602, 52-2-622 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS & AMD, from DFS, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2001 MAR p. 1107, Eff. 6/22/01; AMD, 2002 MAR p. 1553, Eff. 5/31/02.)

Rules 19 through 24 reserved

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37.97.125

37.97.125 YOUTH CARE FACILITY: PERSONS AFFECTED BY  
DEPARTMENT RECORDS (REPEALED) (History: Sec. 41-3-1103, 41-3-  
1142 and 52-2-111, MCA; IMP, Sec. 2-4-201, 41-3-1103, 41-3-1142  
and 52-2-111, MCA; NEW, 1994 MAR p. 3011, Eff. 11/24/94; TRANS,  
from DFS, 1998 MAR p. 663; REP, 2004 MAR p. 2409, Eff. 10/8/04.)

Rules 26 and 27 reserved

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37.97.128 YOUTH CARE FACILITY: CONFIDENTIALITY OF RECORDS AND INFORMATION (1) All records maintained by a YCF and all personal information made available to a YCF pertaining to an individual child must be kept confidential and are not available to any person, agency or organization except as specified in (2) through (4) of this rule.

(2) All records pertaining to an individual child are available upon request to:

(a) the child's parent, guardian, legal custodian, or attorney absent specific and compelling reasons for refusing such records;

(b) a court with continuing jurisdiction over the placement of the child or any court of competent jurisdiction issuing an order for such records;

(c) a mature child to whom the records pertain, absent specific and compelling reasons for refusing specific records; or

(d) an adult who was formerly the child in care to whom the records pertain absent specific and compelling reasons for refusing such records.

(3) All records pertaining to individual children placed by the department are available at any time to the department or its representatives.

(4) Records pertaining to individual children not placed by or in the custody of the department shall be available to the department for the purposes of licensing or relicensing the YCF. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1142, 53-2-105, 53-2-106, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 29 reserved

37.97.130 YOUTH CARE FACILITY: REPORTS (1) The provider shall agree to submit to the department, upon its request, any reports required by federal or state law or regulation.

(2) The YCF (except youth foster homes) shall report any of the following changes to the department prior to the effective date of the change:

- (a) a change of administrator;
- (b) a change in location;
- (c) a change in the name of the agency, program or facility; or
- (d) a significant change in the organization, administration, purposes, programs, or services.

(3) Youth foster homes shall report a change of residence to the department prior to moving and the department shall evaluate the new residence within 30 days of receiving the report.

(4) As required by 41-3-201, MCA, the provider or staff member shall report within 24 hours any incidents of known or suspected child abuse or neglect to the local county welfare office or the state child abuse hot line 1-800-332-6100.

(a) If no action is taken on the referral, or if the above resources are not available at the time, reports shall be made to the department of public health and human services district or state office.

(b) Each child care agency shall require each staff member of the agency to read and sign a statement which clearly defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect according to state law to the department or its local affiliate and to the chief administrator of the agency or a person designated by the administrator.

(c) Each child care agency shall report any suspected or alleged incident of child abuse or neglect to the department and cooperate fully in the investigation of any incident.

(d) Each child care agency shall have written procedures for handling any suspected incident of child abuse including:

(i) a procedure for ensuring that the staff member involved does not work directly with the child involved until the investigation is completed;

(ii) a procedure for conducting in-house investigation of the incident;

(iii) a procedure for disciplining any staff member involved in an incident of child abuse; and

(iv) a procedure for notification of the county welfare department.

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(5) Any serious incident involving a child shall be reported within the next working day to the person or agency which placed the child and to the licensing worker.

(a) A "serious incident" means suicide attempts, excessive physical force by staff, sexual assault by residents or staff, injury to a child which requires hospitalization, or the death of a child.

(b) The YCF shall complete a written incident report concerning any serious incident involving a child. The report shall include the date and time of the incident, the child involved, the nature of the incident, description of the incident and the circumstances surrounding it. A copy of the report shall be filed at the YCF and a copy shall be sent to the licensing worker.

(6) Runaways shall be reported immediately to the police and within the next working day to the agency or person who placed the child.

(7) Disasters or emergencies which require closure of a residence unit shall be reported to the licensing worker within the next working day.

(8) The current YCF license shall be publicly displayed at the YCF. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 31 reserved

37.97.132 YOUTH CARE FACILITY: GENERAL REQUIREMENTS FOR FOSTER PARENTS AND CHILD CARE STAFF WORKING IN YOUTH GROUP HOMES AND CHILD CARE AGENCIES

(1) In addition to the specific requirements set out in subchapters 2, 4, and 6, of this chapter, child care staff working in group homes and child care agencies, and foster parents, must:

- (a) be at least 18 years of age;
- (b) be of good moral character;
- (c) be physically, mentally, and emotionally competent to care for children;
- (d) like and understand children; and
- (e) be in good general health.

(2) The department may require a psychological evaluation or medical examination of, and/or a signed authorization for release of medical or psychological records from:

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(a) any person applying for licensure as a foster parent, or any member of the household of a person applying for licensure as a foster parent;

(b) any foster parent, or any member of a foster parent household; and

(c) any person defined as child care staff.

(3) A personal statement of health for licensure form provided by the department must be completed for each person subject to the requirements of this rule. The form must be submitted to the department with the initial application for licensure and annually thereafter.

(4) The department may require completion of a criminal background and child and adult protective services check on each person subject to the requirements of this rule. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; NEW, 1991 MAR p. 2262, Eff. 11/28/91; AMD, 1997 MAR p. 1664, Eff. 9/23/97; TRANS, from DFS, 1998 MAR p. 663.)

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Subchapter 2

Child Care Agencies

37.97.201 CHILD CARE AGENCY: ADMISSIONS AND DISCHARGES

(1) A child care agency shall admit only those children for whom it has an operational program and who meet its admissions policies.

(2) Each child care agency must have written admissions policies which include the following licensing requirements:

(a) Each child care agency, except maternity homes and receiving homes, shall obtain or develop a social study on the child and his family before admission.

(b) The admission person or committee shall review all information and resources and determine the appropriateness of placement, including age and developmental needs of children accepted into the program.

(c) The child care agency's policy shall provide for and encourage a pre-placement process with the child and family and may allow exceptions for emergency placements and geographical distances. The referring parties should be encouraged to assist with these arrangements.

(d) Referrals may only be accepted from parents or agencies authorized by law to place children.

(e) The admission policy shall specify the age, sex and type of children served.

(3) Each child care agency shall include plans for discharge in the child's case plan and review these plans quarterly.

(a) The discharge plans shall include recommendations to the placing agency for follow-up services to the child.

(b) When the placement has been made by the parent, the provider shall be responsible for referral for support services.

(c) The provider shall assist the child and, when appropriate, the child's family in preparing for the child's discharge from the program. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-4-111 and 53-4-113, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-2-201, and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.202 CHILD CARE AGENCY: CASE PLANS (1) Each child care agency, except receiving homes, must develop a case plan for each child in care. A case plan is a specific plan for providing care, treatment and services of any kind to a specific child.

(2) The case plan must include the following:

(a) the child's specific needs and the manner in which these needs will be met;

(b) the service goals with corresponding time frames, placement goals, discharge plans and follow-up services.

(3) The case plan must be developed within 30 days after admission and be reviewed at least quarterly.

(4) The child care agency, the referring party, the child and his or her family must have an understanding of the placement goals, mutual responsibilities, and privileges. (History: Sec. 41-3-503, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 03 through 05 reserved



37.97.206 CHILD CARE AGENCY: PERSONNEL (1) Each child care agency must have a written personnel policy covering the following items: job qualifications, job descriptions, supervisory structure, salary schedules, fringe benefits, insurance, hours of work, and performance evaluations.

(2) Personnel records. Each child care agency must maintain a personnel file for each employee. The personnel file must contain: application for employment, reports from references, record of in-service training or other training acquired after the date of hiring, reports of health examinations, and periodic performance evaluation.

(3) General personnel qualifications.

(a) All child care staff of a child care agency must meet the following general qualifications:

(i) understand the purpose of the child care agency and be willing to carry out its policies and programs; and

(ii) meet the general requirements for child care staff set out in ARM 37.97.132 and any additional qualifications for the position established by these rules.

(4) In-Service training. Each child care staff member must complete 15 hours of in-service training each year, in an area directly related to the staff member's duties. This training must be documented in each staff member's personnel file. The training may include formal course work, workshop attendance, or the reading of appropriate literature.

(5) The facility shall have a policy governing emergency medical procedures. That policy shall be fully explained to child care staff persons prior to their beginning to care for children.

(6) The child care agency shall employ, train and supervise an adequate number of staff necessary to ensure proper care, treatment and safety of the residents.

(7) No staff member, aide, volunteer or other person having direct contact with the children in the facility shall conduct themselves in a manner which poses any potential threat to the health, safety and well being of the children in care.

(8) The personal references of all staff shall be verified by the child care agency.

(9) Any staff member whose behavior or health status endangers the residents shall not be allowed at the child care agency.

(10) Administration.

(a) A child care agency must designate an administrator to direct and manage the child care agency's work in all areas. The administrator's duties specifically include but are not limited to directing the care and services provided to children in care, personnel matters, and any other specific matters determined by the board of directors of the child care agency.

(b) An administrator must meet the following qualifications in addition to the general qualifications for child care staff:

(i) have a bachelor's degree supplemented with experience in an area relating to professional child care or appropriate graduate education;

(ii) have a thorough understanding of the purposes and programs of child care agencies in general; and

(iii) have general leadership, administrative, and management ability, including the ability to supervise child care personnel.

(11) Social services.

(a) Each child care agency must employ an adequate number of trained professionals to provide the following services for each child in care:

(i) to plan for a child's admission, coordinate the case plan and overall treatment plan, negotiate for the necessary resources for the child, and prepare the child for discharge and return to the family or other placement;

(ii) to serve as advocate for the child and liaison with the family, the referring party, and the community;

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(iii) to prepare and maintain all required records and reports regarding the child;

(iv) to provide post-placement plans and services and to make the necessary referrals;

(v) to assist the child and staff to adjust to the child's placement; and

(vi) to record the child's reactions to the child care agency, school, other children, staff, and family, and to participate in staff discussion regarding progress and plans for the child.

(b) Those persons providing social services must meet the following qualifications in addition to the general qualifications for child care staff:

(i) have a bachelor's degree in a behavioral science and experience in areas related to child care or services; or

(ii) have a reasonable equivalent to the above.

(c) Maternity home staff, in addition to the above requirements, must employ an adequate number of trained professionals to provide the following services to residents:

(i) decision-making counseling to explore adoption and parenting options;

(ii) family systems counseling to explore parenting roles and potential abuse issues; and

(iii) prenatal and parent training education.

(12) Education. If a child care agency conducts a formal education program for children in care, teachers must have the same minimum qualifications as comparable teachers in the public and private schools of Montana. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-4-111 and 53-4-113, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1978 MAR p. 908, Eff. 6/24/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2262, Eff. 11/28/91; AMD, 1993 MAR p. 403, Eff. 3/26/93; TRANS, from DFS, 1998 MAR p. 663.)

37.97.207 CHILD CARE AGENCY: CHILD/STAFF RATIO (1) Each child care agency must maintain the minimum child/staff ratios set forth in this rule.

(a) Children of child care staff members, including foster children, who are present in the child care unit must be counted in computing child/staff ratios.

(b) Child care agencies other than receiving homes must use the actual number of children in care each day to compute the child/staff ratio.

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(c) Child care agencies, other than maternity homes, must maintain the following minimum staff ratios:

(i) from 3:00 p.m. to 11:00 p.m., 1 to 8; and

(ii) from 11:00 p.m. to 3:00 p.m., 1 to 10.

(d) A child care agency's residential treatment center must meet the child/staff ratios set forth in ARM 37.97.250.

(e) Maternity homes must maintain the following minimum child/staff ratios (excluding babies being cared for by their mothers):

(i) from 3:00 p.m. to 10:00 p.m., 1 to 12; and

(ii) from 10:00 p.m. to 3:00 p.m., 1 to 16.

(iii) additional staff must be available for duty within 30 minutes. (History: Sec. 41-3-503, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1993 MAR p. 403, Eff. 3/26/93; TRANS, from DFS, 1998 MAR p. 663.)

Rules 08 through 12 reserved

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37.97.213 CHILD CARE AGENCY: FINANCES (1) Each child care agency shall:

(a) have a sound financial plan to carry out its defined purposes and provide proper care for children;

(b) have sufficient funds or resources for its first year of operation and be able to furnish evidence to that effect;

(c) maintain financial records of all receipts, disbursements, assets, and liabilities; and

(d) provide for an annual audit of all accounts by an independent auditor who is not regularly employed by the child care agency or a member of the board of directors.

(2) Financial responsibility for medical and dental treatment shall be established prior to placement and shall usually lie with the parent, guardian, custodian, and/or referring party of the child. (History: Sec. 41-3-503, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 14 and 15 reserved

37.97.216 CHILD CARE AGENCY: RECORDS (1) Each child care agency must maintain accurate and current records on each child in care, as follows:

(a) identifying information on the child and his family, including the child's name, date and place of birth, sex, religion, race, names of relatives, and other necessary information;

(b) date of the child's admission and name of the referring party;

(c) date of the child's discharge and authorization for the discharge;

(d) documentation concerning a child's specific medical problems; and

(e) a dated record of significant occurrences for each child while in care.

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(2) Additional records to be kept by all child care agencies, except receiving homes are as follows:

(a) a copy of the court order, parental agreement, consent decree, or consent adjustment authorizing the child's placement and any other pertinent court action concerning the child;

(b) a report stating the reasons for placement and the current case plan;

(c) a social study on the child and his family;

(d) psychological or psychiatric information on the child if psychological or psychiatric services have been provided to the child at any time;

(e) quarterly progress reports on the child's reaction to the placement and services provided;

(f) quarterly reports from any parties providing any services to the child outside the child care agency; and

(g) a case plan with written quarterly reviews of the plan.

(3) In addition, a copy of the most recent physical examination of the child must be kept by all child care agencies, except receiving homes and maternity homes.

(4) Each child care agency must keep an accurate monthly record showing the number of children in care, the number admitted and discharged, the children's ages and sex, and the current average length of stay. This information must be submitted to the department upon the department's request.

(5) Every child care agency, except receiving homes, must provide for regular periodic review of the health records of all children in care by a registered nurse or other appropriately qualified health professional to assure the continued health care of the children. (History: Sec. 41-2-1142, 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 17 through 19 reserved

37.97.220 CHILD CARE AGENCY: SUPERVISION OF MEDICATION

(1) Each child care agency shall have written policies and procedures governing the use and supervising of medication to children. These policies and procedures shall be disseminated to all persons responsible for prescribing or supervising of medication.

(a) These policies shall specify:

(i) procedures for documenting the supervision of medication and medication errors and drug reactions; and

(ii) procedures for notification of the attending physician in cases of medication errors and/or drug reactions.

(2) Each child care agency shall maintain a cumulative record of all medication dispensed to children including:

(a) the name of the resident;

(b) the type and usage of medication;

(c) the reason for prescribing the medication;

(d) the time and date the medication was taken by the child;

(e) the name of the supervising person; and

(f) the name of the prescribing physician.

(3) When a child first comes into care, the child care agency shall ascertain all medication the child is currently taking and make plans to either continue the medication or to reconsider the medication needs of the child considering the changed living circumstances.

(4) The child care agency shall provide a copy of a child's medication schedule to all staff members responsible for supervising the medication to the child. The schedule shall subsequently be placed in the child's case record.

(5) Maternity homes shall refer the residents to a certified nurse midwife or a physician licensed to practice in the state to provide assistance in prenatal care and delivery at a licensed medical facility. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1993 MAR p. 403, Eff. 3/26/93; TRANS, from DFS, 1998 MAR p. 663.)

Rules 21 through 24 reserved

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37.97.225 CHILD CARE AGENCY: TIME-OUT (1) Any child care agency which uses time-out procedures shall have a written policy governing the use of time-out.

(2) This policy shall include procedures for involving the use of time-out and shall outline other less restrictive responses to be used prior to use of time-out. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 53-2-201, 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.226 CHILD CARE AGENCY: PASSIVE PHYSICAL RESTRAINT

(1) The child care agency must provide training in passive physical restraint to all staff members who may be required to use passive physical restraint and shall provide at least yearly refresher courses.

(2) Passive physical restraint of a child may be used to end a disturbance by the child that immediately threatens physical injury to the child, other persons, or property. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 53-2-201, 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 27 through 29 reserved

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37.97.230 CHILD CARE AGENCY: TREATMENT PROGRAM (1) The child care agency shall have a written description of its treatment program which shall be made available to the placing agency and parents. The written description shall include:

(a) the name, position and qualification of the person who has overall responsibility for the treatment program;

(b) identification of staff responsible for planning and implementing the various treatment procedures and techniques;

(c) description of staff competencies and qualifications;

(d) description of staff training requirements;

(e) description of the various treatment procedures and techniques used;

(f) the anticipated levels of disturbance for which such procedures and techniques are to be used;

(g) provisions for follow-up and after care;

(h) provisions for transfer to another treatment resource when goals for treatment of a particular child have not been met or further treatment is required;

(i) description of procedures used for assessing the appropriateness of the treatment strategy for each particular child;

(j) provisions for ongoing monitoring and recording;

(k) procedures for regular review of the overall treatment program and the individualized treatment strategies.

(2) The treatment program shall be designed to provide:

(a) adequate safeguard for the child's health and welfare;

(b) the least restrictive method to accomplish treatment goals; and

(c) utilization of available community resources.  
(History: Sec. 41-3-1103 and 53-4-113, MCA; IMP, Sec. 41-3-1103, MCA; NEW, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 31 and 32 reserved

37.97.233 CHILD CARE AGENCY: MANAGEMENT (1) The child care agency shall present its program management policies to the department at application. The policies shall include at least the following:

- (a) program statement and description of services;
- (b) policies for decision making, supervision of staff and consultation;
- (c) program strategies, policies and procedures;
- (d) case review policy;
- (e) admission and discharge policies and procedures;
- (f) support services policies and procedures;
- (g) children's grievance procedure;
- (h) transportation policies and procedures. (History: Sec. 41-3-1103 and 53-4-113, MCA; IMP, Sec. 41-3-1103, MCA; NEW, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 34 through 37 reserved

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37.97.239

37.97.238 CHILD CARE AGENCY: EDUCATION (1) All child care agencies shall have an educational program appropriate to the needs of the child and in compliance with compulsory school attendance laws. However, no child shall receive special education services until a child study team (CST) has performed an appropriate comprehensive assessment which yields evidence that the child has learning and/or behavioral problems requiring a specialized service not offered by the regular school program. Any child who is receiving special educational services shall have an individualized education program, (IEP), in accordance with ARM 10.16.1207. (History: Sec. 41-3-1103 and 53-4-113, MCA; IMP, Sec. 41-3-1103, MCA; NEW, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.239 CHILD CARE AGENCY: RECREATION (1) The child care agency may have an on-grounds recreation program operated with staff of the facility; however, access to community recreation and culture shall be provided appropriate to the child's needs, interests and abilities. (History: Sec. 41-3-1103 and 53-4-113, MCA; IMP, Sec. 41-3-1103, MCA; NEW, 1984 MAR p. 327, Eff. 2/17/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 40 through 49 reserved

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37.97.250

37.97.250 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, STAFFING (1) In addition to the child care agency staff referred to in ARM 37.97.206(7) through (12), a residential treatment center must have on staff or under contract a licensed psychiatrist or licensed psychologist, an education program coordinator, teachers, a program administrator, a registered nurse, recreation staff and qualified treatment practitioners.

(2) Child care staff qualifications/ratio:

(a) Child care staff of a residential treatment center must have a bachelor's level degree or 3 years of experience in group child care or any equivalent combination of education and experience.

(b) Child care staff are involved in the ongoing daily care and custody of the residents.

(c) Child care staff/child ratio:

7 am to 11 pm	One awake staff person per each 6 children in the residence/unit with 1 staff person on call.
11 pm to 7 am	One awake staff person per each 12 children in the residence/unit with 1 staff person on call.

(3) Psychiatrist:

(a) The psychiatrist may be available to the residents and the child care staff for consultation, training and therapy as needed and may assist the administrative staff, treatment practitioners and education staff to understand the medical concepts in working with children and their families.

(4) Education program coordinator/teachers:

(a) The education program coordinator must have at least a bachelor's level degree in education and be certified by the state of Montana as a teacher.

(b) The education coordinator shall be on the staff of the agency and shall run the provider's education program.

(c) Teachers must be on staff or under contract with the agency and must meet the same qualifications as comparable teachers in the public school system in Montana and have training in special and/or remedial education.

(5) Administrator:

(a) The residential treatment center administrator must have a bachelor's degree and 4 years of experience in residential child care or a master's degree and 2 years of residential child care experience. Prior relevant administrative and supervisory experience may be substituted for residential child care experience.

(b) The residential treatment center administrator has overall responsibility for management of the agency's treatment program, clinical services, physical environment and finances, including but not limited to:

(i) planning and implementation of programs and services within the framework of policies set by the board; and

(ii) the design and control of fiscal procedures needed to assure program stability and fiduciary responsibility; and

(iii) establishing good community relations and ways of integrating the children and staff into community activities and service networks.

(6) Psychologist(s):

(a) The services of a psychologist shall be used to provide a diagnosis and to contribute to treatment plans for each child.

(b) The psychologist(s) shall provide, consult or supervise:

(i) administering of psychometric tests on an individual basis and interpreting the findings;

(ii) direct treatment of selected children in individual and/or group sessions;

(iii) involvement by residents in psychotherapy, behavior management, counseling and other therapy;

(iv) participation in ongoing and aftercare planning, as requested by the program administrator, and in periodically evaluating the progress of each child in treatment;

(v) consultation to individual staff members who are responsible for direct treatment of children in formulating and modifying treatment plans; and

(vi) in-service training for staff to help staff understand symptomatic behavior and to enable them to deal with it in the way that is best for the child.

(7) Registered nurse:

(a) The nurse must be registered by the state board of nursing.

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(b) The registered nurse shall be under contract or on staff of the agency and may be involved in routine treatment of physical ailments, administering medication, staff and client physical examinations and medical consultation.

(8) Treatment practitioner:

(a) Treatment practitioner(s) must be on staff of the agency and have at least a master's degree in psychology, social work, or other counseling field or a bachelor's degree and 2 years of experience in family, individual and group work, and shall receive, as needed, consultation on specific cases by a licensed psychologist or psychiatrist.

(b) The practitioner(s) may be involved chiefly in treatment planning; case consultation; family, individual and group therapy; and the development of individual treatment plans for children in the treatment program. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1142, 53-2-201 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 51 and 52 reserved

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37.97.254

37.97.253 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, EDUCATION (1) The residential treatment center shall have an on-grounds education program including special education services. (History: Sec. 41-3-1142 and 53-4-111, MCA; IMP, Sec. 53-2-201 and 53-4-111, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.254 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, RECREATION (1) The residential treatment center shall have an on-grounds recreation program for residents, including: team sports, individual sports, non-competitive games, physical conditioning, arts, crafts, music, cultural and ethnic pursuits, records, books, and hobby equipment as appropriate for each child's treatment plan. (History: Sec. 41-3-1142 and 53-4-111, MCA; IMP, Sec. 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 55 and 56 reserved

37.97.257 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, SECLUSION (1) Only child care agencies which operate a licensed residential treatment center may use seclusion as a method of intervention.

(2) A seclusion room is a single room in a child care agency treatment center in which a child may be confined.

(a) Seclusion may be used as a means of intervention only when the child is in danger of harming himself, others, or property.

(b) Seclusion shall be used only for the time needed to change the behavior necessitating its use. Seclusion shall not be used as punishment.

(3) Each child care agency which utilizes seclusion shall have a written statement of its seclusion policies which describe, at a minimum:

(a) the philosophy for use of the room;

(b) the procedure for admittance;

(c) emergency procedures for special circumstances occurring while the child is in placement (i.e., fire, internal or external disaster, etc.); and

(d) the method for children to express grievances regarding the use of seclusion;



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(4) The child shall be informed of the reason for seclusion at the time of the child's placement in seclusion.

(5) Children shall not be placed in a seclusion room which has not been inspected and approved by the department.

(6) Records of the use of the seclusion room, policies for the operation and supervision of the room, the children's treatment records, staff records and the room itself shall be made available to the department for inspection.

(7) If the child care agency does not meet all requirements for the use of the seclusion room, the department shall give written notice of the specific deficiencies which shall be corrected. The child care agency shall cease secluding any children in the room until corrections are made and authorization is given by the department.

(8) When a seclusion room is used, the following physical requirements shall apply:

(a) the room shall be a minimum of 64 square feet to be occupied by one child only;

(b) the room shall be maintained in a clean and sanitary condition;

(c) all utility or ventilation switches, including electrical outlets, shall be outside the room. Switches will be restricted to operation by staff only;

(d) windows shall be of shatter resistant material;

(e) the room shall contain an observation window constructed of shatter resistant material;

(f) there shall be no features by which a child may be injured within the room;

(g) there shall be no more than one locked door between the child and staff;

(h) if soundproof, the room shall have an intercom system which shall be activated when in use;

(i) there shall be an approved ventilation system.

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(9) A child may not be placed in seclusion unless:

(a) lesser restrictive alternatives have been attempted by staff and have failed to control the child;

(b) the child is in danger of harming himself, others, or property;

(c) the placement in seclusion has been approved by a qualified treatment practitioner authorized by the provider to place children in seclusion.

(10) Placement in seclusion may not exceed 1 hour unless specifically authorized by a psychiatrist. In no event may placement in seclusion exceed 24 hours. A child who requires seclusion in excess of 24 hours shall be transferred to an acute psychiatric care facility.

(11) A staff member with no other immediate duties shall continuously monitor the child placed in seclusion by visual or auditory means and shall remain within 20 feet of the room. If continuous monitoring is by auditory means, the staff member shall visually check on the child at least every 10 minutes.

(12) Upon the placement of a child in seclusion, the following minimum items shall be recorded, updated and maintained, if applicable:

(a) a written report which states the child's name, date, time of placement, staff member initiating the placement, qualified treatment practitioner authorizing placement and narrative describing the following: the precipitating event, child's behavior before placement, and actions taken by staff of a less restrictive nature in an attempt to control, calm or contain the child;

(b) written notation of visual checks at least every 10 minutes and notation of behavior and time occurring;

(c) notation regarding opportunity to use toilet facilities once per hour;

(d) notations regarding when the child had opportunity to exercise;

(e) notation as to medications administered, time given and staff administering;

(f) notation of all staff contact including a description of the resolution of the placement incident which results in the termination of seclusion.

(13) Staff of the residential treatment center who monitor or initiate the use of the room shall be trained in the use of seclusion and be specifically authorized by the facility. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1142, 53-2-201, and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.258 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, MECHANICAL RESTRAINT (1) A child care agency shall not use mechanical restraint without first becoming licensed by the department to operate a residential treatment center.

(2) A residential treatment center which uses mechanical restraints shall use only those forms of mechanical restraint which are approved by the department.

(a) The agency shall not use or apply any form of mechanical restraint which inflicts physical pain or is likely to cause personal injury.

(3) Each child care agency which uses mechanical restraint shall have written policies governing the use of such restraint. The policy shall describe, at a minimum:

(a) the philosophy for use of mechanical restraint;

(b) the procedure for use of mechanical restraint;

(c) the emergency evacuation procedures for special circumstances occurring while a child is in restraint (i.e. fire, natural disaster); and

(d) the method for children to express grievances regarding the use of mechanical restraint.

(4) A child care agency which uses mechanical restraint shall assign a staff member with no other immediate responsibilities to continuously monitor any child placed in restraint.

(a) The staff member shall ensure that the child's physical needs are promptly met.

(b) The staff member must remain in continuous auditory and visual contact with the child.

(5) The administrator of the child care agency which uses mechanical restraint or a person designated by that administrator must authorize each use of mechanical restraint. Each authorization shall be for one-half hour only. No child shall be kept in mechanical restraint for more than 2 hours in any 12-hour period.

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(a) Any child who needs to be mechanically restrained for more than 2 hours in any 12-hour period shall be transferred to an acute care psychiatric facility.

(6) Mechanical restraint shall not be used as punishment. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-4-1103, 41-3-1141, 41-3-1142, 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.259 CHILD CARE AGENCY: RESIDENTIAL TREATMENT CENTER, CHEMICAL RESTRAINT (1) A child care agency shall not use chemical restraint without first being licensed by the department to operate a residential treatment center.

(2) Chemical restraint of a child may be used only if the child is a danger to himself or others and cannot be controlled by any other type of restraint.

(3) Each child care agency which uses chemical restraint shall have written policies governing the use of such restraint. The policies shall describe at a minimum:

- (a) the philosophy for use of chemical restraint;
- (b) the procedures for use of chemical restraint;
- (c) the emergency evacuation procedures for special circumstances occurring while a child is in restraint (i.e. fire, natural disaster); and
- (d) the method for children to express grievances regarding use of chemical restraint.

(4) A residential treatment center which uses chemical restraint shall ensure that such restraint is administered by intramuscular injection by a person qualified and trained in the administration of intramuscular injections.

(a) A child who is capable of accepting an oral administration of chemical restraint shall not be deemed to require chemical restraint.

(5) A residential treatment center which uses emergency chemical restraint shall ensure that each administration of chemical restraint is specifically ordered by a physician who has personally examined the child.

(a) There shall not be standing orders related to the use of chemical restraint.

(b) The child shall be monitored continuously by a person trained and qualified to observe potential adverse side effects. This person shall have no other immediate responsibilities.

(6) A physician shall authorize each use of chemical restraint prior to the administering of such restraint.

(7) When a child in care requires chemical restraint on more than three occasions during a 30-day period an emergency meeting shall be held to discuss the appropriateness of the child's continued placement at the agency. This meeting shall take place within 24 hours of the third incident requiring chemical restraint and shall include the chief administrator of the agency or his/her representative, a physician and all appropriate staff. A report of this meeting, signed by all persons attending, shall be filed in the child's case record and a copy sent to the placing agency.

(a) The agency shall make every effort to notify the placing agency and the child's parent(s) or guardian of this situation. If possible, a representative of the placing agency and the child's parent(s) or guardian shall attend the emergency meeting.

(b) Documentary evidence of the attempt to notify the placing agency and the child's parent(s) or guardian shall be placed in the child's case record.

(8) Chemical restraint shall not be used as punishment. (History: Sec. 41-3-1103, 41-3-1142 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1141, 41-3-1142, 53-4-111 and 53-4-113, MCA; NEW, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 60 through 69 reserved

37.97.270 CHILD CARE AGENCY: ADDITIONAL REQUIREMENTS

(1) In addition to the preceding standards which apply specifically to child care agencies, a child care agency must also comply with the standards contained in ARM 37.97.501, 37.97.506, 37.97.508, 37.97.519(2) through (8), 37.97.521 and 37.97.522. (History: Sec. 41-3-503, 41-3-1103, 53-4-111 and 53-4-113, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1984 MAR p. 327, Eff. 2/17/84; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Subchapters 3 and 4 reserved

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37.97.502

Subchapter 5

Youth Group Homes

37.97.501 YOUTH GROUP HOME: ADMINISTRATION (1) The youth group home shall be a nonprofit or for profit corporation registered under the laws of Montana or under direct administration of a unit of state, local or tribal government.

(2) The provider shall have established sound plans and policies of organization and administration clearly defining legal responsibility, administrative authority and responsibility for services to the residents and community.

(3) The provider shall have written policies for personnel, admission, discharge, program and financial records. These policies shall be furnished to the department with the initial license application and annually thereafter.

(4) Staff of the youth group home shall receive training from the provider on the provider's policies and current status of residents. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.502 YOUTH GROUP HOME: PROGRAM REQUIREMENTS

(1) The program of all youth group homes shall include the following:

(a) Care and guidance:

(i) provision of three regular, well-balanced meals per day, maintenance of home, and clothing, and supervision of child's health and dental care;

(ii) personal care, supervision, and attention appropriate to age;

(iii) provision of opportunities for educational, social and cultural growth through suitable reading materials, toys, activities and equipment;

(iv) provision of opportunities for associations with peer groups and for experiences in school and community;

(v) cooperation with the placing agency and participating in case conferences;

(vi) cooperation with the placing agency in arranging for contact with child's own family when appropriate.

(b) Nutrition:

(i) The provider shall serve meals and snacks appropriate to the nutritional needs of the children and shall include the four basic food group requirements.

(ii) Special diets shall be provided for residents as ordered in writing by a physician. Such orders shall be kept on file at the facility.

(iii) Copies of menus as served shall be kept on file for one month and shall be available for inspection.

(iv) All food shall be transported, stored, covered, prepared and served in a sanitary manner.

(v) Use of home canned products, other than jams, jellies and fruits is prohibited unless the youth group home has been commercially approved.

(vi) Hands shall be washed with warm water and soap before handling of food.

(c) Education: Each provider shall assure that each child in its care is offered an educational program that is appropriate to the child's needs and in compliance with compulsory school attendance laws.

(d) Religion: All children in the youth group home shall have the opportunity to voluntarily practice their respective religion. Children shall be permitted to attend religious services of their choice in the community and to receive visits from representatives of their respective faiths.

(e) Culture: The provider shall give encouragement and opportunity to each child to identify with his cultural heritage.

(f) Clothing:

(i) The provider shall provide each child with his own clothing suitable to the child's age and size and comparable to the clothing of other children in the community.

(ii) Children shall have some choice in the selection of their clothing.

(g) Personal hygiene: The provider shall train children in personal care, hygiene, and grooming and shall provide each child with the necessary supplies.

(h) Privacy and individualism: The provider shall allow the children to have privacy.

(i) The provider shall provide a separate bed, separate storage space for clothing and personal articles, and a place for the child to display his socially appropriate creative works and symbols of identity.

(ii) Each child shall be provided with access to a quiet area where he can be alone when appropriate.

(i) Money: Money earned by a child or received as a gift or allowance shall be his personal property and accounted for separately from group home funds.

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(i) If the youth group home is partly supported by institutional production on a commercial basis, compliance with child labor laws and minimum wage laws must be assured.

(j) Training and employment: The provider shall assist in preparing children for economic independence.

(i) The provider shall assist children in obtaining the skills necessary for employment (i.e., completing applications, appearance, attitude toward employment, interviewing for jobs) and shall utilize community resources for vocational counseling and training.

(ii) The provider must distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training. Children in care shall not be used as employees of the facility without prior approval of the department.

(k) Recreation: The provider shall encourage the children to continue any socially appropriate activities, classes or participation in clubs or groups. The children shall be allowed to become voluntarily involved in community programs that meet his needs, interests and abilities. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 03 through 05 reserved

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37.97.506

37.97.506 YOUTH GROUP HOME: PHYSICAL CARE (1) Every youth group home shall have access to the services of at least one physician.

(2) Medical, dental, psychiatric, psychological care and counseling services shall be obtained for children as needed.

(3) If a child has not received a complete physical examination within 6 months prior to placement, the provider shall arrange for the child to have a complete physical examination within 30 days after admission to the facility and yearly thereafter.

(4) If a child has not had a dental examination within a year prior to placement the provider shall arrange for the child to have one within 90 days after admission. All necessary dental work shall be done and reexamination shall be arranged for the child at least annually.

(5) Provisions for treatment of diseases, remedial defects or deformities, and malnutrition shall be made by the provider immediately upon the physician's recommendation with notification to the placing agency.

(6) All medication shall be kept in a place inaccessible to children, in their original containers, labeled with the original prescription label.

(7) Discipline: Each youth group home shall have a written policy for the discipline of children in care. Copies shall be made available to all provider staff, referring parties, parents, and the children. This policy shall include the philosophy of discipline, methods of discipline permitted, and the purpose of discipline as it relates to the ongoing learning and development process.

(a) Discipline must not be physically or emotionally damaging.

(b) There must be no cruel, harsh, or unusual punishment.

(c) Verbal abuse of a child is prohibited.

(d) No child of any age can be shaken or hit.

(e) Children must not be denied meals, mail or contacts with their families as punishment.

(f) No disciplinary practices of any sort shall be employed which are humiliating or degrading to the child or which undermine the child's self-respect.

(g) Medication shall never be used to discipline or threaten children.

(h) An incident report shall be completed by any child care staff involved in an infraction of the discipline requirements. The incident report shall be placed in the child's file.

(i) An investigation of the incident shall be conducted by the provider's board of directors, supervisors or placing agency. A complete report of the investigation shall be placed in the provider's records and shall be available for inspection by the licensing agent and referring party. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 07 reserved

37.97.508 YOUTH GROUP HOME: ENVIRONMENTAL REQUIREMENTS

(1) The youth group home shall provide an adequate and potable supply of water. The facility shall:

(a) connect to a public water supply system approved by department of environmental quality; or

(b) for youth group homes utilizing a nonpublic water system, the department hereby adopts and incorporates by reference the following circulars prepared by the department of environmental quality:

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- (i) circular #11 for springs;
- (ii) circular #12 for water wells;
- (iii) circular #17 for cisterns.

(A) These circulars set forth the relevant water quality standards for springs, water wells and cisterns. A copy of these circulars may be obtained from the Department of Environmental Quality, 1520 East Sixth Avenue, Helena, Montana.

(c) If a non-public water supply is used, the facility shall submit a water sample at least quarterly to a laboratory licensed by the department of environmental quality in order to determine that the supply does not contain microbiological contaminants.

(d) The water system shall be repaired or replaced when the supply:

(i) contains unacceptable levels of microbiological contaminants; or

(ii) does not have the capacity to provide adequate water for drinking, cooking, personal hygiene, laundry, and water carried waste disposal.

(2) To insure sewage is safely disposed of, the youth group home shall either:

(a) connect to a public sewer approved by the department of environmental quality; or

(b) if a nonpublic system is utilized, the department hereby adopts and incorporates by reference bulletin 332, which sets forth standards for sewage disposal. A copy of bulletin 332 may be obtained from the Department of Environmental Quality, 1520 East Sixth Avenue, Helena, Montana.

(c) The sewage system shall be repaired or replaced whenever:

(i) it fails to accept sewage at the rate of application;

(ii) seepage of effluent from or ponding of effluent on or around the system occurs;

(iii) contamination of a potable water supply or state waters is traced to the system; or

(iv) a mechanical failure occurs.

(3) Solid waste disposal: The youth group home shall:

(a) store all solid waste in containers which have lids and are corrosion-resistant, flytight, watertight, and rodent-proof;

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- (b) clean all solid waste containers frequently;
- (c) transport or utilize a private or municipal hauler to transport the solid waste at least weekly to a landfill site approved by the department of environmental quality in a covered vehicle or covered containers.
- (4) A youth group home shall comply with the following structural requirements:
  - (a) All rooms and hallways shall have adequate lighting.
  - (b) Adequate space shall be provided for all phases of daily living, including recreation, privacy, group activities and visits from family, friends and community acquaintances.
  - (c) Children shall have indoor areas of at least 40 square feet of floor space per child for quiet, reading, study, relaxing, and recreation. Halls, kitchens, and any rooms not used by children shall not be included in the minimum space requirement.
  - (d) A sleeping room shall contain at least 50 square feet of floor space per person. Bedrooms for single occupancy must have at least 80 square feet.
  - (5) Bathrooms shall be cleaned thoroughly with a germicidal cleaner at least weekly and more often if needed.
  - (6) Other areas shall be cleaned on a regular basis.
  - (7) There shall be hot and cold water available in the youth group home. Water temperature for hot water must be limited to 120° F or below.
  - (8) There shall be a washing machine and dryer available.
  - (9) The youth group home shall be equipped with a telephone. Telephone numbers of the hospital, police department, fire department, ambulance, and poison control center shall be posted by each telephone. Telephone numbers of the parent(s) and placing agency shall be readily available.
  - (10) Youth group homes shall have reasonable access to schools, churches, job opportunities, shopping, health and recreational activities. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 09 through 18 reserved

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37.97.519 YOUTH GROUP HOME: FIRE SAFETY (1) The department hereby adopts and incorporates by reference group R division 3 of the uniform building code which sets forth the fire safety regulations which shall apply to youth group homes. A copy of group R division 3 of the uniform building code may be obtained from the Department of Commerce, Building Codes Division, 1218 East Sixth Avenue, Helena, Montana.

(2) Smoke detectors approved by a recognized testing laboratory shall be located at stairways and in any areas requiring separation as set forth in the uniform building codes.

(3) A fire extinguisher approved by a recognized testing laboratory with a minimum rating of 2A10BC shall be readily accessible to the kitchen area.

(4) The date and signature of the person checking both the batteries in the smoke detector and the fire extinguisher shall be recorded and filed at the youth group home.

(a) Smoke detector batteries shall be checked by the provider at least once each month and the batteries replaced at least once each year.

(b) Fire extinguishers shall be checked by the provider at least quarterly.

(5) The staff shall be trained in the proper use of the fire extinguisher and the training recorded in the files.

(6) Staff and residents shall be instructed upon arrival in the procedure for evacuation in case of fire. The procedure shall be posted in a conspicuous place in the youth group home.

(7) All exits shall be clear and unobstructed at all times.

(8) Paint, flammable liquids and other combustible material shall be kept in locked storage away from heat sources or in outbuildings not used by the children. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 20 reserved

37.97.521 YOUTH GROUP HOME: TRANSPORTATION (1) Persons transporting the children shall possess a valid Montana motor vehicle operator's license. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.522 YOUTH GROUP HOME: GUNS AND AMMUNITION

(1) Guns, including air rifles and/or ammunition shall not be kept in a youth group home. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 23 reserved

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37.97.524

37.97.524 YOUTH GROUP HOME: STAFF (1) Houseparents, substitute houseparents and other child care staff must meet the general requirements for child care staff set out in ARM 37.97.132.

(2) The provider shall establish minimum qualifications for staff and adopt a procedure for screening applicants.

(3) Staff shall attend meetings and training sessions in order to improve their knowledge, understanding and practice. Training shall include a minimum of four hours of orientation by the provider within the first week regarding the organization, program and emergency procedures.

(4) The resident to staff ratio on the premises shall not be more than 8:1 awake from 7 a.m. to 11 p.m. or 8:1 sleeping from 11 p.m. to 7 a.m.

(5) The resident to staff ratio on the premises shall be as follows:

(a) moderate level therapeutic youth group home providers must meet the minimum staffing requirements specified in ARM 37.37.108;

(b) campus based level therapeutic youth group home providers must meet the minimum staffing requirements specified in ARM 37.37.111; and

(c) intensive level therapeutic youth group home providers must meet the minimum staffing requirements specified in ARM 37.37.115. (History: Sec. 41-3-503, 41-3-1103, 41-3-1142, 52-2-111, 52-2-603, 52-2-622, 53-4-111 and 53-4-212, MCA; IMP, Sec. 41-3-503, 41-3-1103, 41-3-1142, 52-2-113, 52-2-603, 52-2-622, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; AMD, 1991 MAR p. 2262, Eff. 11/28/91; AMD, 1992 MAR p. 2728, Eff. 12/25/92; AMD, 1993 MAR p. 1506, Eff. 7/16/93; AMD, 1994 MAR p. 2739, Eff. 10/14/94; AMD, 1997 MAR p. 1664, Eff. 9/23/97; TRANS, from DFS, 1998 MAR p. 663; AMD, MAR p. 979, Eff. 5/9/03.)

Rule 25 reserved

37.97.526 YOUTH GROUP HOME: PLACEMENT AGREEMENTS

(1) When a child is admitted to the group home, the provider shall enter into a written placement agreement with the placing agency.

(2) The placement agreement shall set forth the terms of the child's placement, the responsibilities of the provider, the placing agency and, when appropriate, the parents.

(3) No child from out-of-state shall be accepted into the youth group home without the approval of the interstate compact administrator pursuant to 41-4-101 through 41-4-109, MCA. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 27 reserved



37.97.528 YOUTH GROUP HOME: CHILDREN'S CASE RECORDS

(1) The provider shall maintain a written case record for each child which shall include administrative, treatment, and educational data from the time of admission until the time the child leaves the group home. A child's case record shall include the following:

- (a) the name, sex, birthdate and birthplace of the child;
- (b) the name, address, and telephone number of the parent(s) or guardian of the child;
- (c) date of admission and placing agency;
- (d) when the child was not living with his parents prior to admission, the name, address, telephone number and relationship to the child of the person with whom the child was living;
- (e) date of discharge, reason for discharge, and the name, telephone number and address of the person or agency to whom the child was discharged;
- (f) all documents related to the referral of the child to the facility as provided by the placing agency;
- (g) documentation of the current custody and legal guardianship as provided by the placing agency;
- (h) the child's court status, if applicable;
- (i) a copy of the child's birth certificate or a written statement of the child's birthdate including the source of this information;
- (j) consent forms signed by the parents or guardian prior to placement allowing the group home to authorize all necessary medical care, routine tests, immunization and emergency medical or surgical treatment;
- (k) cumulative health records including medical history and immunization records as provided by the placing agency;
- (l) education records and reports;
- (m) treatment or clinical records and reports;
- (n) records of special or critical incidents;
- (o) case plans and related material; and
- (p) social summary current to date of placement.

(2) The case record of each child receiving moderate, campus based or intensive level therapeutic youth group home services must contain the additional documentation set out in ARM 11.13.116. (History: Sec. 41-3-503, 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-503, 41-3-1103, 53-2-201 and 53-4-113, MCA; NEW, 1983 MAR p. 742, Eff. 7/1/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; AMD, 1992 MAR p. 2728, Eff. 12/25/92; AMD, 1993 MAR p. 1506, Eff. 7/16/93; AMD, 1994 MAR p. 2739, Eff. 10/14/94; TRANS, from DFS, 1998 MAR p. 663.)

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Subchapter 8

Youth Shelter Care

37.97.801 YOUTH SHELTER CARE: RELATIONSHIP TO YOUTH CARE FACILITY LICENSURE (1) A provider of substitute care in the form of shelter care may be licensed as a youth shelter care facility as defined in ARM 37.97.102 and pursuant to the requirements of ARM 37.97.801 through 37.97.843. Licensure as a youth shelter care facility may be in lieu of licensure as a youth foster care home, youth group home, or child care agency. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 02 through 04 reserved

37.97.805 YOUTH SHELTER CARE: ADMINISTRATION (1) A youth shelter care facility shall be a nonprofit or for profit corporation registered under the laws of Montana or under direct administration of a unit of state, local or tribal government.

(2) The provider shall have established policy and sound plans of organization and administration clearly defining legal responsibility, administrative authority and responsibility for services to the residents and community.

(3) The provider shall have written policy for personnel, admission, discharge, program and financial records. The policy shall be furnished to the department with the initial license application and annually thereafter.

(4) The provider shall have written position descriptions for all employees which include a description of duties, responsibilities, limitations of authority and principal measures of accountability and performances. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 06 through 08 reserved

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37.97.809 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, CARE AND GUIDANCE (1) The program of all youth shelter care facilities shall include the following:

- (a) ongoing appropriate maintenance of the facility;
- (b) appropriate personal care, supervision, and attention;
- (c) provision of opportunities for educational, social and cultural growth through suitable reading materials, toys, activities and equipment; and

- (d) provision of opportunities for associations with peer groups and for experiences in school and community.

(2) The facility shall ensure the following practices:

- (a) cooperation with the placing agency and participation in case conferences; and

- (b) cooperation with the placing agency in arranging for contact with each youth's own family when appropriate.

(3) The provider shall encourage youth to continue any socially appropriate activities, classes or participation in clubs or groups. Each youth shall be allowed to become voluntarily involved in community programs that meet his or her needs, interests and abilities. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.810 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, NUTRITION (1) The provider shall serve three regular, well balanced meals per day and snacks appropriate to the nutritional needs of the youth and shall include the four basic food group requirements.

(2) Special diets shall be provided for residents as ordered in writing by a physician. Such orders shall be kept on file at the facility.

(3) Copies of menus as served shall be kept on file for one month and shall be available for inspection.

(4) All food shall be transported, stored, covered, prepared and served in a sanitary manner.

(5) Use of home canned products, other than jams, jellies and fruits is prohibited unless the youth shelter care facility has been commercially approved.

(6) Hands shall be washed with warm water and soap before the handling of food. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP: Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.811 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, EDUCATION (1) The provider shall assure that each youth is offered an appropriate educational program and shall make a reasonable effort to comply with compulsory school attendance laws. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP: Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 12 through 14 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.817

37.97.815 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, RELIGION AND CULTURE (1) All youth in the shelter care facility shall have reasonable opportunity to practice their respective religions. Youth shall be permitted to attend religious services of their choice in the community and to receive visits from representatives of their respective faiths.

(2) The provider shall give encouragement and opportunity to each youth to identify with his or her cultural heritage. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.816 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, PERSONAL NEEDS (1) The provider shall assure that each youth has his or her own clothing suitable to the youth's age and size and comparable to the clothing of other youth in the community.

(2) Youth shall have some choice in the selection of their clothing.

(3) The provider shall train youth in personal care, hygiene, and grooming and shall provide each youth with the necessary supplies. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.817 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, PRIVACY AND INDIVIDUALISM (1) The provider shall allow youth to have privacy.

(2) The provider shall provide a separate bed, separate storage space for clothing and personal articles, and a place for each youth to display his or her socially appropriate creative works and symbols of identity.

(3) Each youth shall be provided with access to a quiet area where he or she can be alone when appropriate. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 18 and 19 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.820

37.97.820 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, SEARCHES (1) The provisions of this rule apply to all searches by shelter care facilities of youth and their personal property, including searches of personal correspondence.

(2) There must be reasonable cause for any search.

(3) Any correspondence search shall be conducted in the presence of the youth.

(4) The shelter care facility shall adopt policy relating to searches, including pat down searches, personal property searches and correspondence searches. The policy must include protocol for conducting personal property searches when the youth is not available to be present for the search. The policy must also require that the events of each search are documented in writing.

(5) No youth shall be subjected to any of the following intrusive acts:

(a) strip searches;

(b) body cavity searches;

(c) video surveillance; or

(d) routine opening of personal correspondence.

(6) No youth shall be subject to urinalysis testing unless the testing has been ordered by a court or is required pursuant to a treatment plan for monitoring drug or alcohol use. The following requirements must also be met by shelter care facilities utilizing urinalysis testing:

(a) prior to any testing, the provider shall adopt policy which addresses, at a minimum, procedures for obtaining samples for urinalysis testing; and

(b) staff shall document compliance with facility policy in connection with each testing. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.821 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, MONEY

(1) Money earned by a youth or received as a gift or allowance shall be his or her personal property and accounted for separately from youth shelter care facility funds.

(2) If the youth shelter care facility is partly supported by institutional production on a commercial basis, compliance with child labor laws and minimum wage laws must be assured. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.822 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, TRAINING AND EMPLOYMENT (1) For youth age 16 and older:

(a) the provider shall assist in preparing youth for economic independence; and

(b) the provider shall assist youth in obtaining the skills necessary for employment as determined to be appropriate to meet the individual's needs (i.e., completing applications, personal appearance, attitude toward employment, interviewing for jobs).

(2) The provider must distinguish between tasks which youth are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training. Youth in care shall not be used as employees of the youth shelter care facility without prior approval of the department. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 23 and 24 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.825

37.97.825 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, DISCIPLINE (1) Each youth shelter care facility shall have a written policy for the discipline of youth. Copies shall be made available to all provider staff, referring parties, parents and the youth and shall include the philosophy of discipline, methods of discipline permitted, behavioral expectations of youth, and the purpose of discipline as it relates to the ongoing learning and developmental process.

(2) Discipline must not be physically or emotionally damaging.

(3) There must be no cruel, harsh, or unusual punishment.

(4) Verbal abuse of a youth is prohibited.

(5) No youth of any age shall be shaken or hit.

(6) Youth must not be denied meals, mail or contact with their families as punishment.

(7) No disciplinary practices of any sort shall be employed which are humiliating or degrading to the youth or which undermine the youth's self-respect.

(8) Medication shall never be used to discipline or threaten youth.

(9) Any staff person involved in or witnessing an infraction of this rule shall complete an incident report clearly detailing the events of the infraction. The report must be completed within 24 hours of the infraction.

(10) A copy of the incident report shall be placed in the youth's file and the incident shall be reported to the department for investigation within one working day of its occurrence.

(11) An investigation of the incident may be conducted by the department.

(12) A complete report of any investigation conducted by the youth shelter care facility shall be placed in the provider's records and shall be available for inspection by the department and the youth's placing agency. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 26 through 29 reserved



37.97.830 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, YOUTH ORIENTATION (1) Each youth shelter care facility shall have a written orientation policy for admission to the facility, including:

- (a) a procedure for ensuring that each youth receives a personal orientation to the facility and program as soon as appropriate but not later than 12 hours after admission;
- (b) inventory of each youth's belongings;
- (c) behavioral expectations;
- (d) privilege systems;
- (e) health and safety procedures;
- (f) house rules;
- (g) intrusive measures;
- (h) documentation that is signed by both the youth and the staff person(s) conducting the orientation and a copy placed in the youth's file; and
- (i) emergency evacuation procedures, including escape routes. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.831 YOUTH SHELTER CARE: PHYSICAL CARE (1) Each youth shelter care facility shall have access to the services of at least one physician.

(2) Medical, dental, psychiatric, psychological care and counseling services shall be obtained for youth as needed.

(3) If a youth has not received a complete physical examination within 6 months prior to placement, the provider shall take steps to arrange for the youth to have a complete physical examination.

(4) If a youth has not had a dental examination within a year prior to placement, the provider shall take steps to arrange for the youth to have a dental examination. All necessary dental work shall be completed as needed.

(5) Provisions for treatment of diseases, remedial defects or deformities, and malnutrition shall be made by the provider immediately upon the physician's recommendation with notification to the placing agency.

(6) All medication shall be kept in their original containers in a locked place identified with the original prescription label.

(7) Administration of all medications per time of day, dosage, staff person administering the medication and recipient of the medication shall be logged in ink. These records shall be kept in or near the locked storage area.

(8) Providers shall promptly dispose of all non-administered prescription medications.

(9) The provider shall have written policy for the administration of both prescription and nonprescription medications. The policy shall include procedures for the disposal of non-administered, expired, or discontinued medications. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663)

37.97.832 YOUTH SHELTER CARE: ENVIRONMENT (1) A youth shelter care facility shall comply with the environmental requirements set forth in ARM 37.97.508. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.833 YOUTH SHELTER CARE: FIRE SAFETY (1) Smoke detectors shall be located at stairways and adjacent to all sleeping areas.

(2) A fire extinguisher approved by a recognized testing laboratory with a minimum rating of 2A10BC shall be readily accessible to the kitchen area.

(3) The date and signature of the person checking both the batteries in the smoke detector and the fire extinguisher shall be documented and on file at the youth shelter care facility.

(4) Smoke detector batteries shall be checked by the provider at least once each month and the batteries replaced at least once each year.

(5) Fire extinguishers shall be checked by the provider at least quarterly.

(6) The staff shall be trained in the proper use of the fire extinguisher and the training recorded in the provider's records.

(7) Staff and residents shall be instructed in the procedure for evacuation in case of fire as required in ARM 37.97.830 and 37.97.838. The procedure must be posted in a conspicuous place in the youth shelter care facility.

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37.97.833

(8) All exits must be clear and unobstructed at all times.

(9) Paint, flammable liquids and other combustible material must be kept in locked storage away from heat sources or in locked outbuildings not used by youth. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 34 and 35 reserved

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37.97.836 YOUTH SHELTER CARE: TRANSPORTATION (1) Staff and volunteers transporting youth shall be at least 18 years old and possess a valid Montana driver's license.

(2) All vehicles used by the facility to transport youth shall have proof of liability insurance.

(3) With the exception of public transportation or rented or leased buses which are not required by law to be equipped with safety restraints, no vehicle shall begin moving until all passengers are seated and secured in age appropriate safety restraints, which must remain fastened at all times the vehicle is in motion.

(4) The back of pickup trucks shall not be used to transport any youth. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.837 YOUTH SHELTER CARE: GUNS AND AMMUNITION

(1) Guns, including air rifles and/or ammunition must not be kept in a youth shelter care facility. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.838 YOUTH SHELTER CARE: STAFF (1) Houseparents, relief houseparents and other child care staff must meet the general requirements for child care staff set out in ARM 37.97.132.

(2) The provider shall establish minimum qualifications for child care staff and adopt a procedure for screening applicants.

(3) The youth shelter care facility program must have a minimum of one designated staff person who shall be responsible for the administration and management of the facility, including the supervision of the services provided to youth in placement. Any staff person designated under this subsection hired after the effective date of this rule shall also have the following qualifications:

(a) a bachelor's degree from an accredited college or university in behavioral or social services; and

(b) at least 2 years of direct work experience in youth services.

(4) Within the first 30 days of the date of hire, all child care staff must receive a minimum of 16 hours of orientation.

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(5) The provider shall establish orientation policy with the following minimum requirements:

(a) prior to assuming any duties as a regular child care staff member, each new staff member shall receive training covering:

- (i) the provider's policy, procedures and program;
- (ii) mandatory child abuse reporting laws;
- (iii) crisis intervention methodologies;
- (iv) fire safety, including facility evacuation routes;

and

- (v) confidentiality.

(b) within the first 7 days of the date of hire and prior to being the sole child care staff on duty with any youth, the employee shall receive training covering:

(i) the provider's response plan for critical behavioral and medical incidents; and

- (ii) suicide prevention.

(c) within the first 30 days of the date of hire and prior to being the sole child care staff on duty, the employee shall receive training in CPR and first aid.

(i) all staff certified in CPR shall receive annual CPR training.

(d) in their first year of employment, child care staff shall attend 14 hours of training in addition to their participation in employee orientation. All other child care staff shall attend a minimum of 20 hours of training per year. Training shall be relevant to the child care staff person's responsibilities in the youth shelter care facility.

(6) Participation in all orientation and training shall be documented in the employee's personnel file.

(7) The resident to staff ratio on the premises shall not be more than 8:1 throughout a 24-hour period. At least one child care staff person shall provide awake coverage during designated sleep hours.

(8) There shall be a minimum of one child care staff person present who is directly responsible for resident care and activities when any resident is in the home. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 39 through 41 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.843

37.97.842 YOUTH SHELTER CARE: PLACEMENT AGREEMENTS

(1) The provider shall enter a placement agreement with the placing agency within 5 working days of the youth's admission.

(2) The placement agreement shall set forth the terms of the youth's placement and the responsibilities of the provider, the placing agency and, when appropriate, the parents. (History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.843 YOUTH SHELTER CARE: CASE RECORDS

(1) The provider shall maintain a written case record for each youth which shall include, at a minimum, the following:

- (a) name and sex of the youth;
- (b) date of admission and placing agency; and
- (c) educational data from the time of admission until the time the youth leaves the youth shelter care facility;
- (d) date of discharge, reason for discharge and the name, telephone number and address of the person or agency to whom the youth was discharged; and

(e) the name, address and telephone number of the parent(s) or guardian of the youth.

(2) If available, each youth's case record shall include:

- (a) the birthdate and birthplace of the youth;
- (b) if the youth was not living with his parents prior to admission, the name, address, telephone number and relationship to the youth of the person with whom the youth was living; and
- (c) the youth's social security number.

(3) Within 72 hours of the youth's placement, the provider shall take steps to obtain the following:

- (a) all documents related to the referral of the youth to the facility as provided by the placing agency;
- (b) documentation of the current custody and legal guardianship as provided by the placing agency;
- (c) youth's court status, if applicable;
- (d) a copy of the youth's birth certificate or a written statement of the youth's birth date including the source of this information;

(e) consent forms signed by the parents or guardian prior to the youth's admission to the youth shelter care facility allowing the provider to authorize all necessary medical care, routine tests, immunization and medical or surgical treatment;

(f) cumulative health records including medical history and immunization records as provided by the placing agency;

(g) dental records;

(h) education records and reports; and

(i) treatment or clinical records and reports.

(4) An initial assessment of the youth's emotional, medical, developmental, social and behavioral status shall be conducted within 8 hours of the youth's admission.

(5) A case plan shall be initiated within 3 days for any youth whose projected stay is anticipated to be longer than 1 week. At a minimum the case plan shall include:

(a) the projected length of the youth's stay;

(b) a plan for assessing and addressing critical needs;

(c) a day program plan for youth who will not be enrolled in the school system;

(d) an immediate needs assessment and assigned responsibilities; and

(e) a plan for the youth's transition out of placement.  
(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Subchapter 9 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.1002

Subchapter 10

Youth Foster Home

37.97.1001 YOUTH FOSTER HOME: FOSTER (1) Foster parents and other members of the household must meet the general requirements for child care staff set out in ARM 37.97.132.

(2) The applicant or licensee shall cooperate with the department in providing the information required by ARM 11.12.115. (History: Sec. 41-3-1103, MCA; IMP, Sec. 41-3-1103 and 41-3-1142, MCA; NEW, 1985 MAR p. 175, Eff. 2/15/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2262, Eff. 11/28/91; AMD, 1997 MAR p. 1664, Eff. 9/23/97; TRANS, from DFS, 1998 MAR p. 663.)

37.97.1002 YOUTH FOSTER HOME: PROGRAM REQUIREMENTS

(1) The foster parent(s) shall provide care and custody including:

(a) provision of regular, well-balanced meals, maintenance of home, and clothing, and supervision of child's health and dental care;

(b) personal care, supervision and attention appropriate to age;

(c) provision of opportunities for educational, social and cultural growth, through suitable reading materials, toys, and equipment;

(d) associations with peer groups and opportunities for experiences in school and community;

(e) cooperation with the placing agency and participation in case conferences and in-service training; and

(f) cooperation in arranging for contact with child's own family, when appropriate.



(2) Education: The foster parent shall participate in arranging an education, employment or training program appropriate for each child.

(a) The foster parent(s) shall participate with the social worker and, when appropriate, the biological parent in providing or arranging for the educational needs of the child in social living, sex education, consumer education, and career planning.

(b) Each foster parent shall assure that all children attend a school unless otherwise approved by the department.

(3) Religion: All children in foster care shall have the opportunity to voluntarily practice their religion. Children shall be permitted by the foster parent(s) to attend religious services of their choice in the community and to visit with representatives of their respective faiths.

(4) Culture: Each child shall be given the opportunity to identify with his cultural heritage and shall be encouraged to do so.

(5) Clothing: The foster parent(s) shall ensure that each child is supplied with his own clothing suitable to the child's age and size.

(a) Clothing shall be comparable to the clothing of other children in the household or community.

(b) Children shall have some choice in the selection of their clothing.

(6) Personal hygiene: Children shall be given training by the foster parent(s) in personal care, hygiene, and grooming and shall be provided with the necessary supplies.

(7) Privacy: The foster parent(s) shall allow privacy for the child and shall provide appropriate sleeping arrangements, separate storage space for clothing and personal articles, and a place to display the child's socially appropriate creative works and symbols of identity.

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37.97.1002

(8) Money: Money earned by a child or received as a gift or allowance shall be his personal property and accounted for separately from foster home funds.

(9) Job-training and employment: The foster parent(s) shall encourage and assist each teenaged child in preparation for future economic independence.

(a) The foster parent(s) shall assist the placing agency and the child in the selection of an appropriate occupational or training course.

(b) The foster parent(s) shall assist the placing agency and the child in finding appropriate employment for the child.

(c) The foster parent(s) shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

(d) Children in care shall not be used as employees of the foster home.

(10) The foster parent shall permit and encourage visitation between the foster child and the child's biological parents, except in those cases where a restriction of visitation is part of a court order or the written case plan. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rules 03 through 05 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.1006

37.97.1006 YOUTH FOSTER HOME: PHYSICAL CARE (1) The foster parent(s) shall ensure quality physical care of children in residence.

(a) Every foster home shall have available the services of a physician.

(b) Medical and dental care including examination and treatment shall be obtained for children as needed.

(i) The child shall have a complete physical examination within 30 days after admission to foster care and yearly thereafter.

(ii) A child who has not had a dental examination within a year prior to placement shall have one within 90 days after admission. Reexamination shall be done at least annually.

(c) Psychiatric, psychological and counseling services including diagnosis and treatment shall be obtained for children as needed.

(d) Treatment of diseases, remedial defects or deformities, and malnutrition upon a physician's recommendation shall be made known to the placing agency by notification by the foster parent(s).

(e) All medication shall be kept in a place inaccessible to children, in their original containers, labeled with the original prescription label.

(f) All children residing in the home under 12 years of age shall be immunized against rubella, tetanus, diphtheria, polio, measles, and, if under 5 years of age, whooping cough. Any child with a history of measles is considered immunized. The medical and immunization history of the child will be recorded on forms provided by the department and kept on file in both the foster home and placing agency.

(g) In an emergency, the foster parent(s) shall make arrangements for emergency care at a nearby hospital, clinic, or doctor's office and, as soon as possible thereafter, notify the placing agency.

(h) The foster parent(s) shall report to the county office of the department any evidence of suspected child abuse.

(i) The foster parent(s) shall sign a placement agreement with the placing agency that includes the responsibilities of each and shall abide by the provisions therein.

(j) When a preschool child is in foster care one of the foster parents should not be employed outside of the home. Placements not conforming with the goal expressed herein must be approved by the appropriate community social worker supervisor working under the supervision of the regional administrator. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1992 MAR p. 1367, Eff. 6/26/92; TRANS, from DFS, 1998 MAR p. 663.)

Rules 07 through 10 reserved

37.97.1011 YOUTH FOSTER HOME: DISCIPLINE (1) The foster parent(s) must be able to show evidence of ability to work with children without recourse to physical punishment or psychological abuse and must be positive in their approach to discipline.

(2) Any discipline or control must be appropriate to the child's age and development level.

(3) No child in care shall be subjected to unusual, severe, cruel, capricious, humiliating or unnecessary punishment.

(4) Foster parents shall not punish children for bed wetting or actions in regard to toilet training.

(5) No child in care shall be subjected to verbal abuse, sexual contact or abuse, derogatory remarks about himself or members of his family or threats to expel the child from the foster home.

(6) No child shall be deprived of meals, mail or family visits as a method of discipline.

(7) Children must not be placed in a locked room.

(8) Participation or nonparticipation in the religious activities of the foster family shall not be used as a form of discipline.

(9) Medication shall never be used to discipline or threaten children.

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37.97.1014

(10) A report shall be completed and sent to the placing agency and licensing social worker by any foster parent involved in physical punishment. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103, 41-3-1142 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 12 reserved

37.97.1013 YOUTH FOSTER HOME: ENVIRONMENTAL REQUIREMENTS

(1) An adequate and safe sewage system and water supply shall be provided by the foster home.

(2) The home shall be comparable to other homes and premises of the community in which it is located.

(3) All foster homes shall be equipped with a telephone. Exceptions may be granted by the department. Telephone numbers of the parents, placing agency, hospital, police department, fire department, ambulance, and poison control center must be posted by each telephone.

(4) Every bathroom door shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Protective plugs shall be installed on electrical outlets in all homes occupied by children under 5 years of age.

(6) The foster parent(s) shall keep the home clean and in good repair and the premises shall be kept free from objects, materials, and conditions which constitute a danger to the occupants. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.1014 YOUTH FOSTER HOME: FIRE SAFETY RULE (1) If the sleeping room is on the second story, there shall be a plan to rescue children if the stairway is blocked.

(2) A smoke detector approved by a recognized testing laboratory, which is properly maintained and regularly tested, shall be located on each level of the foster home. Mobile homes shall have smoke detectors near all sleeping areas.

(3) A workable portable fire extinguisher with a minimum rating of 2A10BC is required. Extinguishers shall be readily accessible at all times.

(4) No unvented fuel-fired heating devices are allowed.

(5) No stove will be so located as to block escape in case of malfunctioning of the stove or heater. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 15 reserved

37.97.1016 YOUTH FOSTER HOME: OTHER SAFETY REQUIREMENTS

(1) Cleaning materials, flammable liquids, detergents, aerosol cans, and other poisonous and toxic materials shall be kept in their original containers and in a place inaccessible to children. They shall be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children.

(2) No new paint containing lead in excess of .06% shall be used.

(3) No extension cord shall be used as permanent wiring.

(4) Any pet or animal, present at the home, with the foster parent's permission, shall show no evidence of carrying disease, and shall be a friendly companion of the children.

(5) Guns and ammunition shall be kept in locked storage or out of the reach of children and with guns stored separate from ammunition.

(6) Any outdoor play area shall be maintained free from hazards such as wells and machinery. If any part of the play area is adjacent to a highway, drainage ditch, holes, or other hazardous areas, the play area shall be enclosed with fencing or natural barriers when pre-school children are in placement to restrict these children from these areas.

(7) Outdoor equipment, such as climbing apparatus, slides, and swings, shall be anchored firmly, and placed in a safe location.

(8) The foster parent(s) shall make swimming and wading pools inaccessible to children except when supervised. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

Rule 17 reserved

LICENSURE OF YOUTH CARE  
FACILITIES

37.97.1019

37.97.1018 YOUTH FOSTER HOME: TRANSPORTATION (1) Foster parents transporting children in care shall possess a valid Montana driver's license and liability insurance coverage.

(2) Appropriate child restraints shall be used when transporting children under four years of age. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

37.97.1019 YOUTH FOSTER HOME: TRAINING REQUIRED

(1) Unless a special exemption has been approved by the department the foster parent(s) shall attend an orientation session prior to licensure, and at least 15 hours of training annually for relicensure, provided or approved by the department and including training in the following topics:

- (a) separation and grieving;
- (b) alternatives to physical discipline and a definition of the department's policy on physical discipline;
- (c) department's and foster parents' roles and responsibilities;
- (d) biological family rights and responsibilities;
- (e) how and why children come into foster care;
- (f) types and behaviors of children in care;
- (g) placement process;
- (h) confidentiality;
- (i) sexual abuse;
- (j) drugs and alcohol; and
- (k) foster parent insurance. (History: Sec. 41-3-1103 and 53-4-111, MCA; IMP, Sec. 41-3-1103 and 53-4-113, MCA; NEW, 1983 MAR p. 1746, Eff. 11/26/83; TRANS, from Dept. of SRS, 1987 MAR p. 1653, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663.)

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